



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Before the Board of Patent Appeals and Interferences

Applicant : Kevin O'Rourke
Serial No. : 09/939, 899
Filed : August 27, 2001
For : A SYSTEM AND USER INTERFACE FOR PROCESSING AND
NAVIGATING PATIENT RECORD INFORMATION
Examiner : Le V. Nguyen
Art Unit : 2174

APPEAL BRIEF

May It Please The Honorable Board:

Appellants appeal the Final Rejection, dated February 9, 2005, of Claims 1 - 24 of the above-identified application. The fee of five hundred dollars (\$500.00) for filing this Brief and any associated extension fee is to be charged to Deposit Account No. 19-2179. Enclosed is a single copy of this Brief.

07/08/2005 MBERHE 00000016 09939899

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Appellants do not request an oral hearing.

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5 July 2005

I. REAL PARTY IN INTEREST

The real party in interest of Application Serial No. 09/939,899 is the Assignee of record:

Siemens Medical Solutions, Inc.
51 Valley Stream Parkway
Malvern, PA 19355-1406

II. RELATED APPEALS AND INTERFERENCES

There are currently, and have been, no related Appeals or Interferences regarding Application Serial No. 09/939,899.

III. STATUS OF THE CLAIMS

Claims 1-24 are rejected and the rejection of claims 1 - 24 are appealed.

IV. STATUS OF AMENDMENTS

All amendments were entered and are reflected in the claims included in Appendix I.

V. SUMMARY OF CLAIMED SUBJECT MATTER

Independent claim 1 recites a method for providing a user interface for use by a portable processing device for accessing and navigating patient record information (page 1, para. 2). The method includes receiving user identification information for authorizing user operation of the portable processing device (page 6, para. 3). The method also includes initiating the display of an image including a plurality of links to a corresponding plurality of individual patients (page 2, para. 2). Data representing a patient record content index is acquired. The content index represent active acquired data is dynamically derived. The data is acquired by processing information comprising an existing particular

patient record, in response to a user command from the portable processing device to access the particular patient record (page 7, para.3 – page 8, para. 1). A display of a patient record content index is then initiated. The display includes a plurality of links to a corresponding plurality of items of patient record information image. The acquired data is used in response to user selection of a link to one of the plurality of individual patients. The display of an image including information comprising a portion of a patient record is displayed in response to user selection of a link to one of the plurality of items of patient record information (page 2, para. 2).

Dependent claim 2 includes the features of independent claim 1 along with the additional feature that the processing of information comprising the existing particular patient record is performed by one of an application located in a remote device and an application in the portable processing device (page 8, para. 3)

Dependent claim 3 includes the features of independent claim 1 and dependent claim 2 and the additional feature that the processing of the information comprising the existing particular patient record includes deriving content index information is derived from patient record information by parsing patient record information ancillary data to identify distinct patient record information sections (page 9, para. 3).

Dependent claim 4 includes the features of independent claim 1 and dependent claim 3. Claim 4 further recites that the ancillary data includes at least one of:

- i. header data of the acquired patient record information;
 - ii. descriptive data in a data field of the acquired patient record information;
 - iii. identification data in a data field of the acquired patient record information;
- and

- iv. text data derived by parsing content of the acquired patient record information (page 9, para 3).

Dependent claim 5 includes the features of independent claim 1, along with the additional activity of initiating display of an image including a plurality of links to a corresponding plurality of lists of patients. The step of initiating display of an image including a plurality of links to a corresponding plurality of individual patients is performed in response to user selection of one of the plurality of links to a corresponding plurality of lists of patients (page 15, para. 1; Figure 8A).

Dependent claim 6 includes the features of independent claim 1, along with the additional activity of initiating display of the patient record content index image. The patient record content index image includes a plurality of links to a corresponding plurality of items of patient record information and a plurality of image icons for display in a plurality of images (page 17, para. 2). The image icon supports at least one of:

- i. initiating display of the image including links to a plurality of lists of patients (Figure 4, 410);
- ii. initiating display of the image including a plurality of links to a corresponding plurality of individual patients (Figure 4, 415); and
- iii. initiating display of medical record information for a next patient (Figure 4, 420).

Dependent claim 7 includes the features of independent claim 1, along with the additional activity of maintaining a row element stationary upon horizontally scrolling an image screen display including other elements of the row (page 10, para. 3 – page 11, para. 1, Figure 18).

Independent claim 10 recites a method for a user interface for use by a portable processing device for accessing and navigating patient record information. The method includes receiving user identification information for use in authorizing user operation of the portable processing device (Figure 4, 405). Patient record information comprising an existing particular patient record is acquired from an information repository (Figure 6, 625). A patient record content index is dynamically generated by deriving content information from ancillary data associated with the acquired patient record information in response to a user command from the portable processing device to access the particular patient record (Figure 4, 420, Figure 5, 515). A display of data representing the patient record content index including a plurality of links to a corresponding plurality of items of patient medical record information is then initiated (Figure 4, 425).

Dependent claim 11 includes the features of independent claim 10 along with the additional feature that the user command from the portable processing device to access the particular patient record comprises user selection of a link to a particular patient.

Dependent claim 12 includes the features of independent claim 10 along with the additional activities of acquiring data representing an item of the patient medical record information in response to user selection of a link of the plurality of links. The item of the patient medical record information is available for access on the portable processing device when the portable processing device is offline. Display of an image including information comprising an item of patient medical information in response to user selection of a link to one of the plurality of items of patient medical record information is initiated.

Independent claim 13 recites a user interface method for use by a portable processing device for accessing and navigating patient record information. The method includes the activity of receiving user identification information for use in authorizing user operation of the portable processing device (Figure 4, 405). Display of a patient record content index image using data derived by dynamically processing information comprising an existing patient record. The initiation of the display of patient record content index image is in response to a user command from the portable processing device to access the particular patient record (Figure 4). The content index image includes a plurality of links to a corresponding plurality of items of patient record information (Figure 4, 425). The display of an image including a recorded patient medical parameter value and an associated medical parameter label comprising an item of patient record information is then initiated (Figure 4, 430). The display is initiated in response to user selection of a link to one of the plurality of items of the patient record information in the content index image (page 14, para. 1). A display of at least one of a reference range for the medical parameter; and a unit of measure for the medical parameter in response to user selection of the medical parameter label is also initiated (Figure 4, 435).

Dependent claim 15 includes the features of independent claim 13 and includes the additional feature that the medical parameter label is a URL link stored in the portable processing device. Additionally, at least one of a reference range for the medical parameter and a unit of measure for the medical parameter is acquired and displayed using the medical parameter label URL (Figure 6, 615).

Dependent claim 16 includes the features of independent claim 13 along with the additional features of initiating display of an image including a plurality of links to a corresponding plurality of individual patients. Additionally, initiating the display of a

patient record content index image is performed in response to user selection of a link to one of the plurality of individual patients (Figure 7, 710; page 17, para. 2).

Dependent claim 17 includes the features of independent claim 13 along with the additional features that the processing of the information comprising the existing patient record includes the activity of initiating generation of the patient record content index image by deriving content information from ancillary data associated with acquired patient record information (page 9, para. 3).

Independent claim 18 recites a system for providing a user interface for use by a portable processing device for accessing and navigating patient record information. The system includes a communication network for receiving user identification information for use in authorizing user operation of the portable processing device (page 6, para. 3). The system also includes a processor for initiating display of an image including a plurality of links to a corresponding plurality of patients (page 2, para. 2). The processor also initiates the display of a patient record content index image using data derived, by dynamically processing information comprising an existing patient record, in response to a user command from the portable processing device to access the particular patient record (page 7, para. 3 – page 8, para. 1). The content index image includes a plurality of links to a corresponding plurality of items of patient record information in response to user selection of a link to one of the plurality of individual patients. The processor also initiates the display of an image including information comprising a portion of a patient record in response to user selection of a link to one of the plurality of items of patient record information (page 2, para. 2).

Independent claim 19 recites a processing system supporting remote operation of a plurality of portable processing devices used for accessing and navigating patient record information. The system validates user identification information received from a portable processing device (Figure 5, 505) and communicates authorization to the portable processing device (Figure 5, 510). The system also derives of content index information from information in an existing patient record by parsing patient record information ancillary data to identify distinct patient record information sections (Figure 4, 420) in response to a user command from a portable processing device to access the particular patient record. The system further communicates patient record information including the patient record content index data to the portable processing device (Figure 5, 515) in response to a request for the patient record information from the portable processing device (Figure 5, 515).

Dependent claim 20 includes the features of independent claim 19 in addition to the further feature that the communicated patient record information includes a medical parameter and includes the activity of communicating to the portable processing device at least one of a reference range for the medical parameter and a unit of measure for the medical parameter in response to receiving a message addressed to a URL associated with a medical parameter label (Figure 5, 515).

Dependent claim 23 includes the features of independent claim 1 in addition to the feature that the activity of processing information comprising of an existing particular patient record is performed in response to downloading of particular patient record information to the portable processing device and storage of the particular patient record information in the portable processing device (page 17, para. 2).

Dependent claim 24 includes the features of independent claim 1 in addition to the feature of acquiring data representing the plurality of links to the corresponding plurality of items of patient record information. Data representing the plurality of links is stored in the portable processing device (page 4, para. 2).

VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 6 and 23 are rejected under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-2, 5, 7-9, 13-14, 16 and 18 stand rejected under 35 U.S.C. 102(b) as being anticipated by Evans (U.S. Patent 5,924,074).

Claims 3-4, 10, 11, 17, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (U.S. Patent 5,924,074) in view of De la Huerga et al. (U.S. Patent 5,903,889).

Claims 6 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (U.S. Patent 5,924,074) in view of Myers et al. (U.S. Patent 5,832,450).

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (U.S. Patent 5,924,074) in view of De la Huerga et al. (U.S. Patent 5,903,889) and further in view of Myers et al. (U.S. Patent 5,832,450).

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (U.S. Patent 5,924,074) in view of Bessette (U.S. Patent 6,263,330).

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (U.S. Patent 5,924,074) in view of De la Huerga (U.S. Patent 5,903,889) as applied to claim 19 and further in view of Bessette (U.S. Patent 6,263,330).

Claims 23 and 24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (U.S. Patent 5,924,074) in view of Official Notice.

VII. ARGUMENT

Evans when taken alone or in any combination with De la Huerga et al., Myers et al., Bessette and Official Notice neither anticipates nor makes unpatentable the present claimed invention. Thus, reversal of the Final Rejection (hereinafter termed “rejection”) of claims 1-24 under 35 U.S.C. §§ 102(b) and 103(a) is respectfully requested.

Overview of the Cited References

Evans describes a system that creates and maintains all patient data electronically. Patient data is captured by the system at its source at the time of entry using a graphical user interface having touch screens. Examples of patient data include patient complaints, lab orders, medications, diagnoses, and procedures. Authorized healthcare providers can access, analyze, update and electronically annotate patient data using pen-based portable computers with wireless connections to a computer network. The system also provides instant analysis of patient data to identify relationships among the data. Reference databases

for consultation regarding allergies, medication interactions and practice guidelines are also options with the system. Legacy data, such as paper files and mainframe data, for a patient can also be incorporated using the system.

De la Hueraga et al. describe a system for retrieving, modifying and collecting data records having a plurality of formats. The data records are distributed on a plurality of databases on a computer network. Means for detecting various types, relationships, and classifications of data records is included in the system. The system also includes means for modifying the data records accordingly to support interactive, hypertext-linked display, and organized access. A related set of data records are able to be stored on a mass storage device such as a CD-ROM to allow for non-network access to the data records.

Myers et al. describe an electronic medical record system that stores data related to patient encounters arising from a content generator in free-form text. A header for each encounter record also uses text to store context information for each encounter record. A plurality of attributes are included in each header. The attributes are embodied as a field descriptor and a value, bound together as a text object. Each encounter record is complete in itself without reference to database keys due to the binding of the field descriptor to the value. Thus, this completeness provides a self-validating record storage system.

Bessette describes a network system for storage of medical records in a database on a server. A collection of data elements containing information of a medical nature for a certain individual comprises one part of the record. The other part of the record includes a plurality of pointers providing addresses or remote locations where other medical data for that particular individual resides. Also included in each record is a data element indicative of the basic type of medical data found at the location pointed to by a particular pointer. As a result of this arrangement, a client workstation can download the record with the set of

pointers which link the client to the remotely stored files. The physician can select the specific information desired because of the identification of the basic type of information each pointer points to as opposed to downloading massive amounts of data where only part of that data is needed at that time. The remaining information is held in the record.

Rejection of Claims 6 and 23 under 35 U.S.C. 112, second paragraph

In the response after the Final office action filed on February 22, 2005, Claims 6 and 23 were formally amended.

In line 5 of page 7, the Final Office Action contended that there was insufficient antecedent basis for the limitation “said image icon.” Thus, claim 6 was amended to recite, “~~said~~ an individual image icon of said plurality of image icons.” The Examiner rejected the amended claim on the basis that it raises new issues that would require further consideration. Applicant respectfully submits that this amendment was formal in nature and was made to provide antecedent basis for the objected to term. Applicant respectfully requests that amendments to claim 6 providing antecedent basis be entered as no new issues were raised by this amendment. Alternatively, Applicant respectfully requests that amendments to provide antecedent basis be deferred until after receipt of a decision on this Appeal.

The Final Office Action also contended that, in claim 23, the phrase “storage of said particular patient record information in said portable processing device” is indefinite. Thus, claim 23 was amended in response to the Final Office Action to recite “storage of said particular patient record information in memory in said portable processing device.” The Examiner made no reference to this amendment in the Advisory Action. Applicant thus

respectfully submits that this amendment was formal in nature and was made to make the claim clear and definite. Applicant respectfully requests that amendments to claim 23 providing clarity be entered.

The claims being appealed are recited in this Appeal as they stand prior to submission of the response to the Final Office Action on February 22, 2005.

Rejection of Claims 1, 2, 5, 7-9, 13, 14, 16 and 18 under 35 U.S.C. 102(b)
over Evans (U.S. Patent 5,924,074)

Reversal of the Final Rejection (hereinafter termed “rejection”) of claims 1-2, 5, 7-9, 13-14, 16 and 18 under 35 U.S.C. 102(b) as being anticipated by US Patent 5,924,074 issued to Evans is respectfully requested because the rejection makes crucial errors in interpreting the cited reference. The rejections erroneously states that claims 1-2, 5, 7-9, 13-14, 16 and 18 are anticipated by Evans.

CLAIMS 1, 8, 9

A principle issue here is whether Evans discloses a patient medical record “content index” that is “dynamically derived, by processing information comprising an existing particular patient record, in response to a user command from” a portable processing device as alleged in the Rejection (Rejection pages 3 and 17). Applicant respectfully submits that these features are not shown (or suggested) in Evans.

The Rejection (on pages 3 and 17 and elsewhere) fundamentally **miss-understands** and **miss-interprets** the Evans reference and **erroneously** alleges that Evans

shows a patient medical record “content index” that is “dynamically derived, by processing information comprising an existing particular patient record, in response to a user command from” a portable processing device. This error is made in connection with all the Application claims. Evans does not show (or suggest) a patient record “**content index**” that is “dynamically derived, by processing information comprising an **existing** particular patient record, in **response** to a user **command from**” a **portable** processing device to access said particular patient record”. Evans provides no 35 USC 112 compliant description of HOW such a patient record “**content index**” may be so “dynamically derived” or any description of such a feature at all. Evans shows a **fixed, static** and **rigid** patient record structure and an associated compatible **fixed, rigid** user interface display image structure employed by portable devices. This is evident from Figures 5, 8 and 19 of Evans relied on in the Rejection (pages 3 and 17). These Figures show the same fixed patient record structure involving a rigid fixed tabbed UI structure comprising progress notes, laboratory, clinical data, encounter data, medication data history, problem list, patient data, practice guidelines and list all elements (see elements 193, 191, 154, 152 and 153 of Figure 5, for example).

Compare the Evans rigid, fixed structure with the simple free form list content index of Figure 11 of the application that involves no rigid fixed structure or associated fixed User Interface structure. It is readily apparent that the content index of Figure 11, comprising a list of patient record partition or section identifier links, is readily generated and adapted to different patient medical record structures. The Figure 11 dynamically generated content index is able to accommodate an almost limitless number of medical record sections and sub-section links because it is a scrollable list. Also the “display of a patient record content index” is supported because there is no fixed configuration tabbed UI structure or complex user interface image structure associated with the Figure 11

content index that needs adaptation and re-generation. In contrast, the Evans user interface relied on in the Rejection, teaches use of a fixed configuration tabbed UI structure complex user interface image structure that impedes adaptation to patient medical record structures of different format and length. The Evans user interface structure needs re-generation, adaptation and re-configuration to each different patient record structure. This is a burdensome task especially for a user interface of a portable processing device and there is no guarantee the Evans user interface image area is able to accommodate a patient medical record structure having numerous sections and complexity exceeding the 10 allowed for in Figures 5, 8 and 19. Further, means for accomplishing such adaptation is not mentioned, discussed or contemplated in Evans because Evans does not recognize or address the problem this feature addresses.

The Application, page 9 last paragraph, discloses HOW a patient medical record content index is dynamically generated. “The server application derives content index information from collated patient record information by parsing the patient record information or by parsing ancillary data” comprising “for example, header data of the patient record information, descriptive data in a data field of acquired patient record information, identification data in a data field of acquired patient record information, and text data derived by parsing content of acquired patient record information”. There is no such disclosure in Evans.

In Evans, there is no 35 USC 112 enabling disclosure at all of dynamic creation of a “content index” as well as links to patient record sections of an already created existing patient medical record”. In Evans “the point of care system 100 presents a patient record graphically using a tabbed layout to organize patient data. The patient chart window 150 includes tabs for patient data 151, clinical data 152, encounter data 153 and progress notes

154. Pointing and clicking on a tab on the patient chart window 150 opens a folder window 155 where a healthcare provider can enter and review patient data within the folder” (Evans column 6 lines 40-47 and Figure 5). Further, in Evans “**upon creation of a patient record**, the patient locator 200 **creates a patient data structure** 210 having the PID and the patient's name” and which “maintains pointers to a clinical data structure 212, a progress note structure 213 and an encounter data structure 214. These data structures include patient data captured by the clinical data capture 142, progress notes 144 and encounter data capture 146, respectively” (Evans column 8 lines 29-34). Consequently, the Evans system involves a patient medical record data structure that is fixed “**upon creation of a patient record**” used by the point of care system in data capture and annotation activity. The Evans system does NOT suggest “acquiring data representing a patient record **content index**” that is “dynamically derived, by processing information comprising an **existing** particular patient record, in **response** to ‘a user **command from said portable** processing device to access said particular patient record” as in the present claimed invention. The absence from Evans of any mention of dynamic content index creation, any disclosure of a method of accomplishing such creation, together with the Evans teaching of use of a fixed configuration user interface image structure **incompatible** with dynamic content index creation corroborate that Evans simply did not contemplate such a feature or recognize any need for it.

The method of Claim 1 supports access, by a portable device user, to information in a patient medical record by “acquiring data representing a patient record content index” that is “dynamically derived, by processing information comprising an existing particular patient record, in response to a user command from said portable processing device to access said particular patient record”. The method involves dynamic creation of a “content index” as well as dynamic creation of “links” to patient record sections of an already

created existing patient medical record. These features address the deficiencies of available portable data access systems. Specifically, “available portable systems for processing patient record information are limited in their capabilities for securely accessing, transferring and updating patient record information and in their capabilities for creating and navigating image menus supporting the location and access of desired patient record data by a user.” (Application page 2 lines 3-7). By using the claimed system, a user is able to specifically access a desired portion of a patient record without having to download and navigate through an entire record which is often large (particularly for a patient with extensive medical history) and cumbersome and a substantial burden for a portable device in view of storage, power and processing constraints (see Application page 9 lines 6-13). This is of substantial advantage in using a portable device in a hospital or other healthcare environment.

In contrast, the Evans system “automates and simplifies existing methods of patient chart creation, maintenance and retrieval” by maintaining “all patient data electronically” to “eliminate or supplement creating and maintaining of physical data records”. The system “captures each piece of data at its source at the time of entry to provide a complete audit trail for all patient data. In this manner, the EMR system transforms a patient chart from a static record of a few clinical interactions into a dynamic, real-time comprehensive record linked to an enterprise-wide clinical database.” (Evans column 2 lines 21-38). The Evans system does not show (or suggest) “acquiring data representing a patient record **content index**” that is “dynamically derived, by processing information comprising an **existing** particular patient record, in **response** to a user **command from** said **portable** processing device to access said particular patient record” as in claim 1 of the present invention. Evans in Figures 5-8 and 19-22 shows display images on a point of care unit allowing a user to annotate and add items to particular parts of a patient record. Evans in column 9 lines 7-14

(relied on in the Rejection) mentions data from external sources may be accessed by the point of care unit. However, nowhere does Evans show or suggest or provide an enabling teaching of, “acquiring data representing a patient record **content index**” that is “dynamically derived, by processing information comprising an **existing** particular patient record, in **response** to a user **command from** said **portable** processing device to access said particular patient record”.

The claimed arrangement processes “information comprising an **existing** particular patient record” like the medical record structure of the Evans system “dynamically” in “**response to a user command**” from the “**portable** processing device”. The “dynamically derived” medical record “content index” includes a “plurality of links to a corresponding plurality of items of patient record information”. This enables a portable device to access and download precisely targeted parts of a medical record that has changing medical record structure as well as medical records having **different data structures** from different hospitals and variable quantity of stored content, for example. The Evans system uses a single patient medical record data structure and an associated fixed, rigid tabbed user interface image structure that is fixed “**upon creation of a patient record**” and is not capable of doing this. There is also no recognition in Evans of the advantages supported by the dynamic “content index” generation in being able to specifically “access a desired portion of a patient record without having to download and navigate through an entire record which is often large (particularly for a patient with extensive medical history) and cumbersome and a substantial burden for a portable device in view of storage, power and processing constraints (Application page 2 lines 3-7, page 9 lines 6-13). There is also no other reason or motivation in Evans for modifying the Evans system to incorporate the claimed features. Consequently, withdrawal of the rejection of Claim 1 under 35 USC 102(b) is respectfully requested.

Dependent claims 8 and 9 are considered to be patentable for the reasons given in connection with claim 1.

CLAIM 2

Dependent claim 2 is considered to be patentable based on its dependence on claim 1. Therefore, the arguments presented above with respect to claim 1 also apply to claim 2. Claim 2 is also considered to be patentable because Evans neither discloses nor suggests “said processing of said information comprising said existing particular patient record is performed by one of, (a) an application located in a remote device and (b) an application in said portable processing device”. Evans does not disclose or suggest “acquiring data representing a patient record **content index**” that is “dynamically derived” by “an application located in a remote device” or by an “application in said portable processing device” in “**response** to a user **command from** said **portable** processing device”. Instead, Evans teaches that using a patient medical record data structure that is fixed “**upon creating of a patient record**” is advantageous. This structure is used by the point of care system and does not contemplate the claimed arrangement or recognize its advantages (Evans column 8 lines 29-34).

In view of the above remarks regarding claims 1 and 2, it is respectfully submitted that the present invention as claimed in claim 2 is not anticipated by Evans.

CLAIM 5

Dependent claim 5 is considered to be patentable based on its dependence on claim 1. Therefore, the arguments presented above with respect to claim 1 also apply to claim 5. In addition, claim 5 is also considered to be patentable because Evans neither discloses nor

suggests the feature combination of claim 1 together with “initiating display of an image including a plurality of links to a corresponding plurality of lists of patients, and wherein said step of initiating display of an image including a plurality of links to a corresponding plurality of individual patients is performed in response to user selection one of said plurality of links to a corresponding plurality of lists of patients.” Rather in Col. 5, line 56 through Col. 6, line 54, Evans discloses the structure of the point of care system, including modules for a patient data capture, a clinical data capture, progress notes, and an encounter data capture. This is not equivalent to the present claimed invention and thus Evans does not anticipate the present invention as claimed in claim 5.

CLAIM 7

Dependent claim 7 is considered to be patentable based on its dependence on claim 1. Therefore, the arguments presented above with respect to claim 1 also apply to claim 7. Claim 7 is also considered to be patentable because Evans neither discloses nor suggests the feature combination of claim 1 together with “maintaining a row element stationary upon horizontally scrolling an image screen display including other elements of said row.” Evans does not suggest such a combination at all. Further, there is no element 182 in Evans Figure 19 relied on in the Rejection page 4. If the Office Action intended to recite element 192 of Figure 19, “button 192” merely “accesses the medication manager 302 (FIG. 18)” (Evans column 11 lines 65-66) and provides no suggestion of “maintaining a row element stationary upon horizontally scrolling an image screen display including other elements of said row”. This feature advantageously facilitates navigation and scrolling an image display which may be limited in size and resolution in a portable device (Application page 10 last paragraph, Figure 4 steps 440-445). Evans does not suggest such a feature or recognize this portable device problem.

In view of the above remarks, it is respectfully submitted that claim 7 of the present invention is not anticipated by Evans for the reasons discussed above.

CLAIMS 13 and 14

Independent claim 13 is considered to be patentable for reasons given in connection with claim 1. Therefore, the arguments presented above with respect to claim 1 also apply to claim 13. Specifically, Evans neither discloses nor suggests a patient medical record “content index” that “using data derived, by dynamically processing information comprising an existing patient record, in response to a user command from” a portable processing device. Rather Evans shows a fixed, static and rigid patient record structure and an associated compatible fixed, rigid user interface display image structure employed by portable devices. No where does Evan mention a dynamic content index creation, nor does he disclose a method of accomplishing such creation. This in combination with the Evans teaching of use of a fixed configuration user interface image structure incompatible with dynamic content index creation corroborate that Evans simply did not contemplate such a feature or recognize any need for it.

Claim 13 is also considered to be patentable because Evans neither discloses nor suggests “initiating display of a patient record content index image using data derived, by dynamically processing information comprising an existing patient record, in response to a user command from said portable processing device to access said particular patient record, said content index image including a plurality of links to a corresponding plurality of items of patient record information; initiating display of an image including a recorded patient medical parameter value and an associated medical parameter label comprising an item of patient record information in response to user selection of a link to one of said plurality of items of patient record information in said content index image; and initiating display of at

least one of, (a) a reference range for said medical parameter and (b) a unit of measure for said medical parameter in response to user selection of said medical parameter label” as in the present claimed invention.

Evans neither discloses nor suggests “display of a patient record content index image using data derived, by dynamically processing information comprising an existing patient record, in response to a user command from said portable processing device to access said particular patient record”. In addition, Evans also does not suggest “initiating display of an image including a recorded patient medical parameter value and an associated medical parameter label comprising an item of patient record information **in response** to user **selection** of a **link** to one of said plurality of items of patient record information in” the dynamically derived “**content index image**”. Rather, the Evans system involves a patient medical record data structure that is fixed “upon creation of a patient record” used by the point of care system in data capture and annotation activity.

Dependent claim 14 is considered to be patentable for the reasons given in connection with claim 13. In view of the above remarks, it is respectfully submitted that claims 13 and 14 of the present invention are not anticipated by Evans for the reasons discussed above.

CLAIM 16

Dependent claim 16 is considered to be patentable based on its dependence on claim 13. Therefore, the arguments presented above with respect to claim 13 also apply to claim 16. Claim 16 is also considered to be patentable because Evans neither discloses nor suggests the feature combination of claim 13 together with “initiating display of an image including a plurality of links to a corresponding plurality of individual patients; and

wherein said step of initiating display of a patient record content index image is performed in response to user selection of a link to one of said plurality of individual patients”.

Nowhere in Evans is this feature combination suggested. Rather in Col. 9, lines 7-14, Evans discloses communication between the data interface and external sources to obtain patient data. This is not “a patient record content index image” as in the present claimed invention.

In view of the above remarks, it is respectfully submitted that claim 16 of the present invention is not anticipated by Evans for the reasons discussed above.

CLAIM 18

Evans does not show (or suggest) a patient record “**content index** image using data derived, by dynamically processing information comprising an **existing** particular patient record, in **response** to a user **command from** said **portable** processing device to access said particular patient record” as in the present claimed invention. Evans provides no 35 USC 112 compliant description of HOW such a patient record “**content index**” may be so dynamically derived or any description of such a feature at all. Evans shows a **fixed, static** and **rigid** patient record structure and an associated compatible **fixed, rigid** user interface display image structure employed by portable devices. This is evident from Figures 5, 8 and 19 of Evans relied on in the Rejection (pages 3 and 17). These Figures show the same fixed patient record structure involving a rigid fixed tabbed UI structure comprising progress notes, laboratory, clinical data, encounter data, medication data history, problem list, patient data, practice guidelines and list all elements (see elements 193, 191, 154, 152 and 153 of Figure 5, for example).

Compare the Evans rigid, fixed structure with the simple free form list content index of Figure 11 of the application that involves no rigid fixed structure or associated fixed User Interface structure. It is readily apparent that the content index of Figure 11, comprising a list of patient record partition or section identifier links, is readily generated and adapted to different patient medical record structures. The Figure 11 dynamically generated content index is able to accommodate an almost limitless number of medical record sections and sub-section links because it is a scrollable list. Also the “display of a patient record content index” is supported because there is no fixed configuration tabbed UI structure or complex user interface image structure associated with the Figure 11 content index that needs adaptation and re-generation. In contrast, the Evans user interface relied on in the Rejection, teaches use of a fixed configuration tabbed UI structure complex user interface image structure that impedes adaptation to patient medical record structures of different format and length. The Evans user interface structure needs re-generation, adaptation and re-configuration to each different patient record structure. This is a burdensome task especially for a user interface of a portable processing device and there is no guarantee the Evans user interface image area is able to accommodate a patient medical record structure having numerous sections and complexity exceeding the 10 allowed for in Figures 5, 8 and 19. Further, means for accomplishing such adaptation is not mentioned, discussed or contemplated in Evans because Evans does not recognize or address the problem this feature addresses.

The Application, page 9 last paragraph, discloses HOW a patient medical record content index is dynamically generated. “The server application derives content index information from collated patient record information by parsing the patient record information or by parsing ancillary data” comprising “for example, header data of the patient record information, descriptive data in a data field of acquired patient record

information, identification data in a data field of acquired patient record information, and text data derived by parsing content of acquired patient record information”. There is no such disclosure in Evans.

In Evans, there is no 35 USC 112 enabling disclosure at all of dynamic creation of a “content index” as well as links to patient record sections of an already created existing patient medical record”. In Evans “the point of care system 100 presents a patient record graphically using a tabbed layout to organize patient data. The patient chart window 150 includes tabs for patient data 151, clinical data 152, encounter data 153 and progress notes 154. Pointing and clicking on a tab on the patient chart window 150 opens a folder window 155 where a healthcare provider can enter and review patient data within the folder” (Evans column 6 lines 40-47 and Figure 5). Further, in Evans “**upon creation of a patient record**, the patient locator 200 **creates a patient data structure** 210 having the PID and the patient's name” and which “maintains pointers to a clinical data structure 212, a progress note structure 213 and an encounter data structure 214. These data structures include patient data captured by the clinical data capture 142, progress notes 144 and encounter data capture 146, respectively” (Evans column 8 lines 29-34). Consequently, the Evans system involves a patient medical record data structure that is fixed “**upon creation of a patient record**” used by the point of care system in data capture and annotation activity. The Evans system does NOT suggest “a patient record **content index** image using data derived, by dynamically processing information comprising an **existing** particular patient record, in **response** to a user **command from** said **portable** processing device to access said particular patient record” as in the present claimed invention. The absence from Evans of any mention of dynamic content index creation, any disclosure of a method of accomplishing such creation, together with the Evans teaching of use of a fixed configuration user interface image structure **incompatible** with dynamic content index

creation corroborate that Evans simply did not contemplate such a feature or recognize any need for it and thus does not anticipate claim 18.

Consequently, Evans teaches a fixed, static and rigid patient record structure and an associated compatible fixed, rigid user interface display image structure employed by portable devices. Evans does NOT teach a patient medical record “content index” that is derived “by dynamically processing information comprising an existing particular patient record, in response to a user command from said a portable processing device” as in the present claimed invention. Thus, as there is no 35 USC 112 enabling disclosure that anticipates the present invention, withdrawal of the Rejection of claims 1, 13 and 18 under 35 USC 102 (b) is respectfully requested. Because claims 2, 5, 7-9, 14 and 16 are dependent on independent claims 1 and 13, they are also patentable over Evans.

**Rejection of Claims 3, 4, 10, 11, 17, 19 and 21 under 35 USC 103(a) over
Evans (U.S. 5,924,074) in view of De la Huerga et al. (U.S. 5,903,889).**

Claims 3, 4, 10, 11, 17, 19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,924,074 – Evans in view of U.S. Patent 5,903,889 – De la Huerga. These claims, as amended, are considered patentable for reasons given in connection with claim 1 and for the following reasons.

In rejecting claims under 35 U.S.C. § 103, it is incumbent upon the examiner to establish a factual basis to support the legal conclusion of obviousness. *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596, 1598 (Fed.Cir. 1988). In so doing, the Examiner is expected to make the factual determinations set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 17, 148 USPQ 459, 467 (CCPA 1966), and to provide a reason why one having ordinary skill in the

pertinent art would have been led to modify the prior art or to combine prior art references to arrive at the claimed invention. Such reason must stem from some teaching, suggestion, or implication in the prior art as a whole or knowledge generally available to one having ordinary skill in the art. *Uniroya, Inc. v. Rudkin-Wiley Corp.*, 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed.Cir. 1988), *cert. denied*, 488 U.S. 825 (1988); *Ashland Oil Inc. v. Delta Resins & Refractories, Inc.*, 776 F.2d 28, 293, 227 USPQ 657, 664 (Fed.Cir. 1985), *cert. denied*, 475 U.S. 1017 (1986); *ACS Hosp. Sys., Inc. v. Montefiore Hosp.*, 732 F.2d 1572, 1577, 221 USPQ 929, 933 (Fed.Cir. 1984). These showings by the Examiner are an essential part of complying with the burden of presenting a *prima facie* case of obviousness. *In re Oetiker*, 977 F.2d 1443, 1445, 24 USPQ2d 1443, 1444 (Fed.Cir. 1992).

CLAIM 3

Dependent claim 3 is considered to be patentable based on its dependence on claim 1. Therefore, the arguments presented above with respect to claim 1 also apply to claim 3. Specifically, Evans neither discloses nor suggests a patient medical record “content index” that is “dynamically derived, by processing information comprising an existing particular patient record, in response to a user command from” a portable processing device. Rather Evans shows a fixed, static and rigid patient record structure and an associated compatible fixed, rigid user interface display image structure employed by portable devices. No where does Evan (with De la Hueraga) mention a dynamic content index creation, nor does Evans (with De la Hueraga) disclose a method of accomplishing such creation. This, in combination with the Evans teaching of use of a fixed configuration user interface image structure incompatible with dynamic content index creation corroborate that Evans simply did not contemplate such a feature or recognize any need for it.

In addition, claim 3 is also considered patentable because claim 3 recites a method in which “said processing of said information comprising said existing particular patient record includes the activity of deriving content index information from patient record information by parsing patient record information ancillary data to identify distinct patient record information sections”. These features, in combination with the features of claim 1, are not shown or suggested in Evans in combination with De la Huerga.

The system of Claim 3 involves “processing” an “existing particular patient record” to provide a “content index” by “deriving content index information from patient record information by parsing patient record information ancillary data to identify distinct patient record information sections”. Neither Evans nor De la Huerga, individually or together, suggest such features. Neither De la Huerga nor Evans, alone or together, suggest performing such functions in “response to a user command from said portable processing device to access said particular patient record”. As recognized in the Rejection on page 6, Evans neither discloses nor suggests “deriving content index information from patient record information by **parsing** patient record information **ancillary data** to identify **distinct** patient record information **sections**”. Contrary to the Rejection statement on page 7, De la Huerga, does NOT teach a system involving “deriving content index information from patient record information by **parsing** patient record information **ancillary data** to identify **distinct** patient record information **sections**”.

Column 17 lines 13-15 of De la Huerga merely shows a computer system in which an “address is created by using information determined by parsing said reference to said first data record” in a system “with a plurality of data records on a plurality of databases, and a standardized format for addressing said data records” (De la Huerga column 16 line 61 to column 17 line 15). Further, “FIG. 15A illustrates how a data record is parsed. A data

record is parsed to locate data references by searching it for text corresponding to a hypertext link or a multimedia data request. If one is found, the URL is located after the initial control sequence and will be saved (step 812) for use after the parsing is completed. If none are found, or when the record has been completely parsed, another pass can be made to search for data references in the form of key words or key phrases” and “a key word or phrase is a recognized text string that is to be converted into a **hypertext link**” (De la Huerga column 16 lines 28-43).

Consequently, De la Huerga teaches a system in which a “data record is parsed to locate **data references** by searching it for text corresponding to a **hypertext link** or a **multimedia data request**” or “**key words or key phrases**” and “a key word or phrase is a recognized text string that is to be converted into a hypertext link”. De la Huerga does NOT teach a system involving “parsing patient record information ancillary data to identify distinct patient record information sections”. There is no suggestion in Evans with De la Huerga of searching for “patient record information ancillary data” to identify “distinct patient record information sections” at all or any 35 USC 112 compliant teaching of HOW such a search is to be performed.

The combination of the De la Huerga features and Evans system as suggested in the Rejection results in a system in which a patient medical record data structure that is fixed “upon creation of a patient record” is searched for “data references by searching it for text corresponding to a hypertext link or a multimedia data request” or “key words or key phrases”. Such a system does NOT search “patient record information ancillary data” to identify “**distinct patient record information sections**” and has no need to since the patient medical record data structure is fixed “**upon creation of a patient record**” and known. Further, there is no other problem recognition, reason or other motivation for combining

the cited references to provide the claimed arrangement. Consequently withdrawal of the Rejection of Claim 3 under 35 USC 103(a) is respectfully requested.

CLAIM 4

Dependent claim 4 is considered to be patentable based on its dependence on claims 1 and 3. Therefore, the arguments presented above with respect to claims 1 and 3 also apply to claim 4. Claim 4 is also considered to be patentable because Evans with De la Huerga neither disclose nor suggest “parsing” at “least one of, (a) header data of said acquired patient record information, (b) descriptive data in a data field of said acquired patient record information, (c) identification data in a data field of said acquired patient record information, and (d) text data derived by parsing content of said acquired patient record information”. De la Huerga teaches a system to locate data references by searching for text corresponding to a “hypertext link or a multimedia data request” or “key words or key phrases” to be converted to a hypertext link. Items a-d do NOT comprise a **“hypertext link or a multimedia data request”** or **“key words or key phrases”** to be converted to a hypertext link. Consequently, the Evans with De la Huerga system would not locate or identify **“distinct patient record information sections”**. Thus, withdrawal of the Rejection of Claim 4 under 35 USC 103(a) is respectfully requested.

CLAIM 10

Independent claim 10 is considered to be patentable for reasons similar to those given in support of claims 1 and 3.

The method of claim 10 involves “dynamically generating a patient record content index by deriving content information from ancillary data associated with said acquired patient record information in response to a user command from said portable processing

device to access said particular patient record.” Neither Evans nor De la Huerga, individually or together, suggest such features. Neither De la Huerga nor Evans, alone or together, disclose dynamic generation of a patient record content index let alone through a user command causing content information to be derived from ancillary data associated with the acquired patient record information. As recognized in the Rejection on page 7, Evans does not show or suggest “deriving content index information from patient record information” nor does it show or suggest deriving content index information from ancillary data associated with the patient record information. De la Huerga also does NOT teach a method involving “dynamically generating a patient record content index by deriving content information from ancillary data associated with said acquired patient record information in response to a user command from said portable processing device to access said particular patient record.”

There is no suggestion in Evans with De la Huerga of searching for “patient record information ancillary data” to “dynamically generate a patient record content index.” The combination of the De la Huerga features and Evans system as suggested in the Rejection results in a system in which a patient medical record data structure that is fixed “upon creation of a patient record” is searched for “data references by searching it for text corresponding to a hypertext link of a multimedia data request” or “key words or key phrases.” Such a system does NOT search “patient record information ancillary data” to “dynamically generate a patient record content index.” Further, there is no other problem recognition, reason or other motivation for combining the cited references to provide the claimed arrangement. Consequently withdrawal of the Rejection of Claim 10 under 35 USC 103(a) is respectfully requested.

CLAIM 11

Dependent claim 11 is considered to be patentable based on its dependence on claim 10. Therefore, the arguments presented above with respect to claim 10 also apply to claim 11. Claim 11 is also considered to be patentable because Evans with De la Huerga neither disclose nor suggest the feature combination of claim 11 in which “said user command from said portable processing device to access said particular patient record comprises user selection of a link to a particular patient”. Column 15, lines 22-32 cited in the rejection discloses securing access to records using passwords. This passage seems to have no bearing on the claimed feature. Specifically, nowhere in lines 22-32 of column 15 of De la Huerga et al. is it disclosed or suggested that “the user command from said portable processing device to access said particular patient record comprises user selection of a link to a particular patient” as in the present claimed invention. Consequently withdrawal of the Rejection of Claim 11 under 35 USC 103(a) is respectfully requested.

CLAIM 17

Claim 17 is considered patentable based on its dependence on claim 13. Therefore, the arguments presented above with respect to claim 13 also apply to claim 17. Specifically, Evans neither discloses nor suggests a patient medical record “content index image using data derived, by dynamically processing information comprising an existing particular patient record, in response to a user command from” a portable processing device. Rather Evans shows a fixed, static and rigid patient record structure and an associated compatible fixed, rigid user interface display image structure employed by portable devices. Nowhere does Evan (with De la Huerga) mention a dynamic content index creation, nor does Evans (with De la Huerga) disclose a method of accomplishing such creation. This, in combination with the Evans teaching of use of a fixed configuration user interface image structure incompatible with dynamic content index creation

corroborate that Evans simply did not contemplate such a feature or recognize any need for it.

In addition, claim 17 is also considered patentable because claim 13 recites a method in which “said processing of said information comprising said existing particular patient record include[es] the activity of...deriving content index information from ancillary data associated with acquired patient record information sections”. These features, in combination with the features of claim 13, are not shown or suggested in Evans in combination with De la Huerga.

The combination of the De la Huerga features and Evans system as suggested in the Rejection results in a system in which a patient medical record data structure that is fixed “upon creation of a patient record” is searched for “data references by searching it for text corresponding to a hypertext link or a multimedia data request” or “key words or key phrases”. Such a system does NOT derive “content information from ancillary data associated with acquired patient record information” and has no need for a feature such as this due to the patient medical record data structure in the De la Huerga and Evans systems being fixed “**upon creation of a patient record**” and known. Further, there is no other problem recognition, reason or other motivation for combining the cited references to provide the claimed arrangement. Consequently withdrawal of the Rejection of Claim 17 under 35 USC 103(a) is respectfully requested.

CLAIMS 19 and 21

Independent claim 19 is considered to be patentable because Evans neither discloses nor suggests a patient medical record “deriving content index information from information in an existing patient record by parsing patient record information ancillary data to identify

distinct patient record information sections in response to a user” as in the present claimed invention. These features are not shown or suggested in Evans in combination with De la Huerga.

The system of Claim 19 involves “processing” an “existing particular patient record” to provide a “content index” by “deriving content index information from patient record information by parsing patient record information ancillary data to identify distinct patient record information sections”. Neither Evans nor De la Huerga, individually or together, suggest such features. Neither De la Huerga nor Evans, alone or together, suggest performing such functions in “response to a user command from said portable processing device to access said particular patient record”. As recognized in the Rejection on page 6, Evans neither discloses nor suggests “deriving content index information from patient record information by **parsing** patient record information **ancillary data** to identify **distinct** patient record information **sections**”. Contrary to the Rejection statement on page 7, De la Huerga, does NOT teach a system involving “deriving content index information from patient record information by **parsing** patient record information **ancillary data** to identify **distinct** patient record information **sections**”.

There is no suggestion in Evans with De la Huerga of “deriving content index information from patient record information by parsing patient record information ancillary data.” The combination of the De la Huerga features and Evans system as suggested in the Rejection results in a system in which a patient medical record data structure that is fixed “upon creation of a patient record” is searched for “data references by searching it for text corresponding to a hypertext link of a multimedia data request” or “key words or key phrases.” Such a system does NOT derive “content index information from patient record information by parsing patient record information ancillary data” as in the present claimed

invention. Further, there is no other problem recognition, reason or motivation for combining the cited references to provide the claimed arrangement. Consequently withdrawal of the Rejection of Claim 19 under 35 USC 103(a) is respectfully requested.

Dependent claim 21 is considered to be patentable based on its dependence on claim 19 for the reasons given in connection with claims 1 and 4 and other claims. Consequently withdrawal of the Rejection of claims 3-4, 10, 11, 17, 19 and 21 under 35 USC 103(a) is respectfully requested.

**Rejection of Claims 6 and 22 under 35 USC 103(a) over
Evans (U.S. 5,924,074) in view of Myers et al. (U.S. 5,832,450).**

CLAIM 6

Dependent claim 6 is considered to be patentable for reasons given in connection with claim 1 and because of its dependence on claim 1. Therefore, the arguments presented above with respect to claim 1 also apply to claim 6. In addition, claim 6 is also considered to be patentable because Evans with Myers neither disclose nor suggest “initiating display of said patient record **content index** image including a plurality of links to a corresponding plurality of items of patient record information and a plurality of image icons for display in a plurality of images, said image icon supporting at least one of, (a) initiating display of said image including links to a plurality of lists of patients, (b) initiating display of said image including a plurality of links to a corresponding plurality of individual patients, and (c) initiating display of medical record information for a next patient”. Evans with Myers teaches the advantage of using a patient medical record data structure that is fixed “**upon creation of a patient record**” used by the point of care system and does not contemplate such a feature combination or its advantages (see Evans column 8 lines 29-34).

Further, Myers is concerned with “electronic medical record systems, and more particularly to an electronic medical record system using a text database to store medical encounter information” (Myers column 1 lines 15-18). Myers does not mention or contemplate portable devices accessing patient medical records and does not recognize the problems involved in such access. Neither reference individually or in combination shows or suggests dynamically deriving a “patient record content index” for display in an image **together with** a “plurality of links to a corresponding plurality of items of patient record information and a plurality of image icons for display in a plurality of images, said image icon supporting at least one of, (a) initiating display of said image including links to a plurality of lists of patients, (b) initiating display of said image including a plurality of links to a corresponding plurality of individual patients, and (c) initiating display of medical record information for a next patient”. There is no recognition in Evans or Myers alone or together of the advantages supported by the dynamic “content index” generation in being able to specifically “access a desired portion of a patient record without having to download and navigate through an entire record which is often large (particularly for a patient with extensive medical history) and cumbersome and a substantial burden for a portable device in view of storage, power and processing constraints (Application page 2 lines 3-7, page 9 lines 6-13). There is also no other reason or motivation in Evans or Myers for combining the Evans and Myers systems to incorporate the claimed features. Therefore, withdrawal of the rejection of claim 6 under 35 USC 103(a) is respectfully requested.

CLAIM 22

Dependent claim 22 is considered to be patentable based on its dependence on claim 1 and for the reasons given in connection with claims 1 and 6 and other claims. Therefore, the arguments presented above with respect to claims 1 and 6 also apply to

claim 22. Claim 22 is also considered to be patentable because neither Evans nor Myers alone or together suggest making available a “portion of said patient record” for “access on said portable processing device when said portable processing device is **offline**”. Evans, as recognized in the Rejection on page 11, does not suggest such a feature. Additionally, contrary to the Rejection statements on page 11, Myers in column 3 lines 55-67 and column 9 lines 17-19 does not mention or suggest such a feature. The sections of Myers relied on in the Rejection merely discuss a medical record system computing architecture and note dictation respectively. Applicant fails to see any connection with the claimed feature and respectfully requests the Examiner to indicate where such a feature is specifically shown or suggested. Incorporating the features of Myers relied on into the system of Evans merely provides a system for accessing a fixed medical record structure patient medical record from a portable device and fails to provide offline access or dynamic content index creation in response to user command from a portable processing device. There is also no reason or motivation in Evans or Myers for combining the Evans and Myers systems to incorporate the claimed features. Consequently withdrawal of the Rejection of claim 22 under 35 USC 103(a) is respectfully requested.

Rejection of Claim 12 under 35 USC 103(a) over
Evans (U.S. 5,924,074) in view of De la Hueraga et al. (U.S. 5,903,889) and further in
view of Myers et al. (U.S. 5,832,450).

CLAIM 12

Dependent claim 12 is considered to be patentable based on its dependence on claim 10 and for the reasons given in connection with claims 1, 6, 10 and 22 and other claims. Therefore, the arguments presented above with respect to claims 1, 6, 10 and 22 also apply to claim 12. Claim 12 is also considered to be patentable because neither Evans

nor De la Huerga et al. nor Myers et al. alone or together suggest making “said item of said patient medical record information is available for access on said portable processing device when said portable processing device is **offline**” as in the present claimed invention. Evans with De la Huerga et al. as recognized in the Rejection on page 12 does not suggest such a feature. However, contrary to the Rejection statements on page 12, Myers in column 3 lines 55-67 and column 9 lines 17-19 does not mention or suggest such a feature. The sections of Myers relied on in the Rejection merely discuss a medical record system computing architecture and note dictation respectively. Incorporating the features of Myers relied on into the system of Evans with De la Huerga merely provides a system for accessing a fixed medical record structure patient medical record using key words or phrases from a portable device and fails to provide offline access or dynamic content index creation in response to user command from a portable processing device. There is also no reason or motivation in Evans with De la Huerga or Myers for combining the Evans, De la Huerga and Myers systems to incorporate the claimed features. Consequently withdrawal of the Rejection of claim 12 under 35 USC 103(a) is respectfully requested.

Dependent claim 12 is considered to be patentable for reasons given in connection with claims 1, 6 and 22. Therefore, the arguments presented above with respect to claims 1, 6 and 22 also apply to claim 12. Consequently withdrawal of the Rejection of claim 12 under 35 USC 103(a) is respectfully requested.

Rejection of Claim 15 under 35 USC 103(a) over
Evans (U.S. 5,924,074) in view of Bessette (U.S. 6,263,330).

CLAIM 15

Dependent claim 15 is considered to be patentable based on its dependence on Claim 13. Therefore, the argument presented above with respect to claim 13 also apply to claim 15.

Dependent claim 15 recites “said medical parameter label is a URL link stored in said portable processing device, and said at least one of, (a) a reference range for said medical parameter and (b) a unit of measure for said medical parameter, is acquired and displayed using said medical parameter label URL”. These features in combination with the features of claim 13 are not shown or suggested in Evans in combination with Bessette.

The system of Claim 15 involves “initiating display of an image including a recorded patient medical parameter value and an associated medical parameter label” in “response to user selection of a link to one of said plurality of items of patient record information in said **content index** image”. Further, the “medical parameter label is a URL link stored in said portable processing device, and said at least one of, (a) a reference range for said medical parameter and (b) a unit of measure for said medical parameter, is acquired and displayed using said medical parameter label URL”. Neither Evans nor Bessette, individually or together, suggest such features. Evans as recognized in the Rejection on page 9 does not suggest use of a “medical parameter label” comprising a “URL link” and states that this feature is indicated in Bessette (with Evans). However, neither Evans nor Bessette show or suggest “said medical parameter label is a URL link **stored** in said

portable processing device” in combination with the other claimed features. Further neither reference shows any specific problem recognition, motivation, or other reason for incorporating the claimed feature arrangement.

The Rejection takes Official Notice that it would be obvious to store URL links on a portable processing device in reference to the claim 15 storage of a URL link comprising the “medical parameter label” of claim 15 (Rejection page 13). It is acceptable for official notice to be taken of a fact of “wide notoriety”, In re Howard, 394 F. 2d 869, 157 USPQ 615, 616 (CCPA 1968) e.g. a fact commonly known to laymen everywhere, 29 AM. Jur 2D Evidence S. 33 (1994) or of a fact that is capable of “instant and unquestionable demonstration”, In re Ahlert 424 F. 2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970). However, official notice should not be taken of a fact normally subject to the possibility of rational disagreement among reasonable men, In re Eynde, 480 F. 2d 1364, 1370; 178 USPQ 470, 474 (CCPA 1973). It is submitted that the elements of which the Rejection takes official notice, in the context of claim 15, are neither features of “wide notoriety”, (In re Howard), nor capable of “instant and unquestionable demonstration” (In re Ahlert). On the contrary, these features are subject to the possibility of rational disagreement given the claim arrangements within which they reside. Consequently, Applicants take exception to instance of Official notice used in the rejection. Further, Applicants request that a showing be made of evidence that these features were well known, in the context of claim 15 at the time the invention was made. Consequently withdrawal of the Rejection of claim 15 under 35 USC 103(a) is respectfully requested.

Rejection of Claim 20 under 35 USC 103(a) over
Evans (U.S. 5,924,074) in view of De la Huerga (U.S. 5,903,889) as applied to claim 19
and further in view of Bessette (U.S. 6,263,330).

This claim is considered to be patentable based on its dependence on claim 19 and for reasons given in connection with previous claims and for the following reasons.

Dependent claim 20 recites “said communicated patient record information includes a medical parameter and including the activity of, communicating to said portable processing device at least one of, (a) a reference range for said medical parameter and (b) a unit of measure for said medical parameter in response to receiving a message addressed to a URL associated with a medical parameter label”. These features in combination with the features of claim 19 are not shown or suggested in Evans in combination with De la Huerga and Bessette.

The system of Claim 20 recites “communicating to said portable processing device patient record information including said patient record content index data in response to a request for said patient record information from said portable processing device”. Further, the “communicated patient record information includes a medical parameter” and the system involves “communicating to said portable processing device at least one of, (a) a reference range for said medical parameter and (b) a unit of measure for said medical parameter in response to receiving a message addressed to a URL associated with a medical parameter label”. Evans, De la Huerga and Bessette, individually or together, fail to suggest such features. Evans as recognized in the Rejection on page 10 does not suggest use of a “medical parameter label” comprising a “URL link” and states that this feature is indicated

in Bessette (with Evans and De la Huerga). However, neither Evans nor Bessette with De la Huerga show or suggest “**communicating** to said portable processing device at least one of, (a) a reference range for said medical parameter and (b) a unit of measure for said medical parameter in **response** to **receiving** a message **addressed to a URL** associated with a medical parameter label” in combination with the other claimed features. Further neither reference shows any specific problem recognition, motivation, or other reason for incorporating the claimed feature arrangement. Consequently withdrawal of the Rejection of claim 20 under 35 USC 103(a) is respectfully requested.

Rejection of Claims 23 and 24 under 35 USC 103(a) over
Evans (U.S. 5,924,074) in view of Official Notice.

CLAIMS 23 and 24

These claims are deemed to be patentable based on their dependence on claim 1 for the reasons given in connection with claims 1 and other claims. These claims are also considered to be patentable for the reasons given below.

The Rejection takes Official Notice that storage of information in a portable processing device is well know with reference to claim 23 which states “storage of said particular patient record information in said portable processing device” (Rejection page 15), and that storing URL links on a portable device is well known with reference to claim 24 that states “storing said data representing said plurality of links in memory in said portable processing device” (Rejection page 15). It is acceptable for official notice to be taken of a fact of “wide notoriety”, In re Howard, 394 F. 2d 869, 157 USPQ 615, 616 (CCPA 1968) e.g. a fact commonly known to laymen everywhere, 29 AM. Jur 2D Evidence S. 33 (1994) or of a fact that is capable of “instant and unquestionable demonstration”, In re Ahlert 424 F. 2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970).

However, official notice should not be taken of a fact normally subject to the possibility of rational disagreement among reasonable men, *In re Eynde*, 480 F. 2d 1364, 1370; 178 USPQ 470, 474 (CCPA 1973). It is submitted that the elements of which the Rejection takes official notice, in the context of their respective claims, are neither features of "wide notoriety", (*In re Howard*), nor capable of "instant and unquestionable demonstration" (*In re Ahlert*). On the contrary, these features are subject to the possibility of rational disagreement given the claim arrangements within which they reside. Consequently, Applicants take exception to the two instances of Official notice used in the Rejection. Further, Applicants request that a showing be made of evidence that these features were well known, in the context of their respective claims at the time the invention was made.

In view of the above amendments and remarks, Applicants submit that the Application is in condition for allowance, and favorable reconsideration is requested.

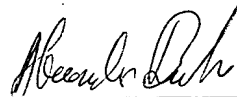
VIII CONCLUSION

Neither Evans, De la Hueraga et al., Myers et al., Bessette nor the Official Notice alone or in combination with one another disclose a method for providing a user interface for use by a portable processing device for accessing and navigating patient record information as in the present claimed invention. Evans, De la Hueraga et al., Myers et al., Bessette and the Official Notice neither disclose nor suggest "receiving user identification information for use in authorizing user operation of said portable processing device" as in the present claimed invention. Additionally, Evans, De la Hueraga et al., Myers et al., Bessette and the Official Notice neither disclose nor suggest "initiating display of an image including a plurality of links to a corresponding plurality of individual patients" as in the present claimed invention. Also, Evans, De la Hueraga et al., Myers et al., Bessette

and the Official Notice neither disclose nor suggest “acquiring data representing a patient record content index, said content index representative acquired data being dynamically derived, by processing information comprising an existing particular patient record, in response to a user command from said portable processing device to access said particular patient record” as in the present claimed invention. Additionally, Evans, De la Huerga et al., Myers et al., Bessette and the Official Notice neither disclose nor suggest “initiating display of a patient record content index including a plurality of links to a corresponding plurality of items of patient record information image using said acquired data in response to user selection of a link to one of said plurality of individual patients” as in the present claimed invention. Furthermore, Evans, De la Huerga et al., Myers et al., and Bessette neither disclose nor suggest, “initiating display of an image including information comprising a portion of a patient record in response to user selection of a link to one of said plurality of items of patient record information” as in the present claimed invention.

Accordingly it is respectfully submitted that the rejection of Claims 1– 24 should be reversed.

Respectfully submitted,
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APPENDIX I - APPEALED CLAIMS

1. (Previously Presented) A method for providing a user interface for use by a portable processing device for accessing and navigating patient record information, comprising the activities of:

receiving user identification information for use in authorizing user operation of said portable processing device;

initiating display of an image including a plurality of links to a corresponding plurality of individual patients;

acquiring data representing a patient record content index, said content index representative acquired data being dynamically derived, by processing information comprising an existing particular patient record, in response to a user command from said portable processing device to access said particular patient record;

initiating display of a patient record content index including a plurality of links to a corresponding plurality of items of patient record information image using said acquired data in response to user selection of a link to one of said plurality of individual patients; and

initiating display of an image including information comprising a portion of a patient record in response to user selection of a link to one of said plurality of items of patient record information.

2. (Previously Presented) A method according to claim 1, wherein,

said processing of said information comprising said existing particular patient record is performed by one of, (a) an application located in a remote device and (b) an application in said portable processing device.

3. (Previously Presented) A method according to claim 2, wherein
said processing of said information comprising said existing particular
patient record includes the activity of
deriving content index information from patient record information by
parsing patient record information ancillary data to identify distinct patient record
information sections.

4. (Original) A method according to claim 3, wherein
said ancillary data comprises at least one of, (a) header data of said acquired
patient record information, (b) descriptive data in a data field of said acquired patient
record information, (c) identification data in a data field of said acquired patient record
information, and (d) text data derived by parsing content of said acquired patient record
information.

5. (Previously Presented) A method according to claim 1, including the
activity of,
initiating display of an image including a plurality of links to a
corresponding plurality of lists of patients, and wherein said step of initiating display of an
image including a plurality of links to a corresponding plurality of individual patients is
performed in response to user selection one of said plurality of links to a corresponding
plurality of lists of patients.

6. (Previously Presented) A method according to claim 1, including the
activity of,
initiating display of said patient record content index image including a
plurality of links to a corresponding plurality of items of patient record information and a

plurality of image icons for display in a plurality of images, said image icon supporting at least one of, (a) initiating display of said image including links to a plurality of lists of patients, (b) initiating display of said image including a plurality of links to a corresponding plurality of individual patients, and (c) initiating display of medical record information for a next patient.

7. (Previously Presented) A method according to claim 1, including the activity of,

maintaining a row element stationary upon horizontally scrolling an image screen display including other elements of said row.

8. (Original) A method according to claim 7, wherein
said stationary row element is the first data element of said row.

9. (Previously Presented) A method according to claim 1, including the activity of,

maintaining a column element stationary upon vertically scrolling an image screen display including other elements of said column.

10. (Previously Presented) A user interface method for use by a portable processing device for accessing and navigating patient record information, comprising the activities of:

receiving user identification information for use in authorizing user operation of said portable processing device;

acquiring patient record information comprising an existing particular patient record from an information repository;

dynamically generating a patient record content index by deriving content information from ancillary data associated with said acquired patient record information in response to a user command from said portable processing device to access said particular patient record; and

initiating display of data representing said patient record contents index including a plurality of links to a corresponding plurality of items of patient medical record information.

11. (Previously Presented) A method according to claim 10, wherein said user command from said portable processing device to access said particular patient record comprises user selection of a link to a particular patient.

12. (Previously Presented) A method according to claim 10, including the activities of

acquiring data representing an item of said patient medical record information in response to user selection of a link of said plurality of links and wherein

said item of said patient medical record information is available for access on said portable processing device when said portable processing device is offline and

initiating display of an image including information comprising an item of patient medical information in response to user selection of a link to one of said plurality of items of patient medical record information.

13. (Previously Presented) A user interface method for use by a portable processing device for accessing and navigating patient record information, comprising the activities of:

receiving user identification information for use in authorizing user operation of said portable processing device;

initiating display of a patient record content index image using data derived, by dynamically processing information comprising an existing patient record, in response to a user command from said portable processing device to access said particular patient record, said content index image including a plurality of links to a corresponding plurality of items of patient record information;

initiating display of an image including a recorded patient medical parameter value and an associated medical parameter label comprising an item of patient record information in response to user selection of a link to one of said plurality of items of patient record information in said content index image; and

initiating display of at least one of, (a) a reference range for said medical parameter and (b) a unit of measure for said medical parameter in response to user selection of said medical parameter label.

14. (Original) A method according to claim 13, wherein
said reference range comprises a normal value range for said medical parameter.

15. (Previously Presented) A method according to claim 13, wherein
said medical parameter label is a URL link stored in said portable processing device, and

said at least one of, (a) a reference range for said medical parameter and (b) a unit of measure for said medical parameter, is acquired and displayed using said medical parameter label URL.

16. (Previously Presented) A method according to claim 13, including the activity of

initiating display of an image including a plurality of links to a corresponding plurality of individual patients; and wherein

said step of initiating display of a patient record content index image is performed in response to user selection of a link to one of said plurality of individual patients.

17. (Previously Presented) A method according to claim 13, wherein,

said processing of said information comprising said existing patient record includes the activity of

initiating generation of said patient record content index image by deriving content information from ancillary data associated with acquired patient record information.

18. (Previously Presented) A system for providing a user interface for use by a portable processing device for accessing and navigating patient record information, comprising:

a communication network for receiving user identification information for use in authorizing user operation of said portable processing device; and

a processor for,

initiating display of an image including a plurality of links to a corresponding plurality of individual patients;

initiating display of a patient record content index image using data derived, by dynamically processing information comprising an existing patient record, in response to a user command from said portable processing device to access said particular patient record, said content index image including a plurality of links to a corresponding plurality of items of patient record information in response to user selection of a link to one of said plurality of individual patients; and

initiating display of an image including information comprising a portion of a patient record in response to user selection of a link to one of said plurality of items of patient record information.

19. (Previously Presented) A processing system supporting remote operation of a plurality of portable processing devices used for accessing and navigating patient record information, comprising the activities of:

validating user identification information received from a portable processing device and communicating operation authorization to said portable processing device;

deriving content index information from information in an existing patient record by parsing patient record information ancillary data to identify distinct patient record information sections in response to a user command from a portable processing device to access said particular patient record; and

communicating to said portable processing device patient record information including said patient record content index data in response to a request for said patient record information from said portable processing device.

20. (Previously Presented) A system according to claim 19, wherein
said communicated patient record information includes a medical parameter
and including the activity of,

communicating to said portable processing device at least one of, (a) a
reference range for said medical parameter and (b) a unit of measure for said medical
parameter in response to receiving a message addressed to a URL associated with a medical
parameter label.

21. (Original) A method according to claim 19, wherein
said ancillary data comprises at least one of, (a) header data of said acquired
patient record information, (b) descriptive data in a data field of said acquired patient
record information, (c) identification data in a data field of said acquired patient record
information, and (d) text data derived by parsing content of said acquired patient record
information.

22. (Previously Presented) A method according to claim 1, including the
activity of,

acquiring data representing said portion of said patient record in response to
user selection of said link and wherein

said portion of said patient record is available for access on said portable
processing device when said portable processing device is offline.

23. (Previously Presented) A method according to claim 1, wherein said
activity of,

processing information comprising an existing particular patient record is
performed in response to download of particular patient record information to said portable

processing device and storage of said particular patient record information in said portable processing device.

24. (Previously Presented) A method according to claim 1, including the activities of,

acquiring data representing said plurality of links to said corresponding plurality of items of patient record information and

storing said data representing said plurality of links in said portable processing device.

APPENDIX II - EVIDENCE

Applicant does not rely on any additional evidence other than the arguments submitted hereinabove.

APPENDIX III - RELATED PROCEEDINGS

Applicant respectfully submits that there are no proceedings related to this appeal in which any decisions were rendered.

APPENDIX IV - TABLE OF CASES

1. *In re Howard*, 394 F. 2d 869, 157 USPQ 615, 616 (CCPA 1968)
2. 29 AM. Jur 2D Evidence S. 33 (1994)
3. *In re Ahlert*, 424 F. 2d 1088, 1091, 165 USPQ 418, 420 (CCPA 1970)
4. *In re Eynde*, 480 F. 2d 1364, 1370; 178 USPQ 470, 474 (CCPA 1973)

APPENDIX V - LIST OF REFERENCES

<u>U.S. Pat. No.</u>	<u>Issued Date</u>	<u>102(e) Date</u>	<u>Inventors</u>
5,924,074	July 13, 1999		Evans
5,903,889	May 11, 1999		De la Huerga et al.
5,832,450	November 3, 1998		Maxwell et al.
6,263,330 B1	July 17, 2001		Bessette

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